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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/705,657	11/10/2003	Jeremy Thaler	10770013010202	6140
37211 7590 03/25/2009 BASCH & NICKERSON LLP 1777 PENFIELD ROAD PENFIELD, NY 14526				
EXAMINER PRATT, HELEN F				
ART UNIT 1794		PAPER NUMBER		
NOTIFICATION DATE 03/25/2009		DELIVERY MODE ELECTRONIC		

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dneels@bnpatentlaw.com  
dmasters@bnpatentlaw.com  
mnickerson@bnpatentlaw.com



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APPLICATION NO./ CONTROL NO.	FILING DATE	FIRST NAMED INVENTOR / PATENT IN REEXAMINATION	ATTORNEY DOCKET NO.
10705657	11/10/2003	THALER ET AL.	10770013010202

BASCH & NICKERSON LLP  
1777 PENFIELD ROAD  
PENFIELD, NY 14526

## EXAMINER

Helen F.. Pratt

ART UNIT	PAPER
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1794

20090317

DATE MAILED:

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Commissioner for Patents

Dear Sir:

The Examiner's Answer contains inconsistencies with the non-final rejection of 8-22-08 which are listed below.

The non-final rejection was reworked to consolidate the rejection of claim 24 over Hines et al. and to make the office action clearer in other instances.

The rejection of claims 1, 3-8, 10, 12-18, 20, 22-23 ....as being unpatentable over Hinds and further in view of Baileys Industrial Oil and Fat Product",

"Baileys Industrial Oil and Fat Product" was not considered to add anything to the rejection, and was dropped from all the rejections. The rejection containing claim 24, only, found on page 9 of the non-final rejection of 8-22-08 was dropped i. e. "Claim 24 is rejected under... as being unpatentable over Hinds et al. as applied to the above claims, and further in view of Liu et al. (6,982,101), and claim 24 was addressed in the EX. Answer, (found on pages 10 and 11), in rejections "Claims 9, 11,19 and 24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lui in view of Hinds et al. (UNHYDROGENATED PALM OIL as a Stabilizer for Peanut Butter) and Harris et al. (2,560,509) as applied to claims 1, 10, 12-18, 20, 22-23, and further in view of Krisinski et al. (4,143,176), and

"Claims 9, 11,19 and 24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hinds et al. (UNHYDROGENATED PALM OIL as a Stabilizer for Peanut Butter) as applied to claims 1, 3-8, 10, 12-18, 20, 22-23 and further in view of Krisinski et al. (4,143,176)."

Also, in this rejection, Harris et al. was dropped as never being in the rejection of Hinds et al. in view of Bailey's Industrial Oil and Fat Products. on page 6 of the non-final rejection.

In the rejection found on page 10 of the EX A. , "Liu in view of" was inserted before "Hinds et al." so as to be consistent with the first rejection found on page 2 of the non-final office action of 8-22-08, i. e. "Claims 9, 11,19 and 24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lui in view of Hinds et al. (UNHYDROGENATED PALM OIL as a Stabilizer for Peanut Butter) and Harris et al. (2,560,509) as applied to claims 1, 10, 12-18, 20, 22-23, and further in view of Krisinski et al. (4,143,176).

No new ground of rejection is seen since the basic thrust of the rejection remains the same, and reliance upon fewer reference does not constitute a new ground of rejection. MPEP 1207.03, part III.

3-20-09

/Helen F. Pratt/  
Primary Examiner, Art Unit 1794

PTO-90C (Rev.04-03)